

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAVID M. FICKES,

Defendant.

Case No. 07-cr-30087-MJR

ORDER

REAGAN, District Judge:

On February 7, 2008, the Court conducted a hearing in this matter pursuant to 18 U.S.C. §§ 4241(c), 4247(d). The Court found that Fickes suffered from a mental disease or defect rendering him mentally incompetent to assist in his defense and ordered that he undergo treatment to restore his competency (Doc. 162). At that time, the Court set a hearing for May 15, 2008 in order to examine Fickes's progress. Fickes now moves to continue the hearing to late July in order to accommodate his ongoing treatment (Doc. 199). The Government has indicated that it has no objection to a continuance.

On March 21, 2008, the Court received a letter from J.M. Roberts, the Unit Manager of the Mental Health Unit for the Bureau of Prisons in Springfield, Missouri. The letter stated that Defendant Fickes arrived at the United States Medical Center for Federal Prisoners on March 13, 2008 for psychological evaluation and treatment.

18 U.S.C. § 4241(d)(1) provides that the Court may only commit a defendant to the custody of the Attorney General for hospitalization and treatment “for such a reasonable period of time, **not to exceed four months**, as is necessary to determine whether there is a substantial probability that in the foreseeable future he will attain the capacity to permit the proceedings to go

forward.” The Court may also order hospitalization for an additional reasonable period of time, but only if “the court finds that there is a substantial probability that within such additional period of time he will attain the capacity to permit the proceedings to go forward.” **18 U.S.C. § 4241(d)(2).**

Under this rubric, the Court finds that the competency hearing in this matter must be held as soon as practicable after four months from Fickes’s arrival at the facility, plus up to ten days resulting from transportation of the defendant. *See* **18 U.S.C. § 3161(h)(1)(H).** Thus, the Court calculates the relevant time frame for the hearing from March 13, 2008, the date upon which Fickes arrived at the United States Medical Center for Federal Prisoners.

Taking all of this into consideration, the Court hereby **GRANTS** Fickes’s motion for a continuance of the competency hearing (Doc. 199) and **SETS** a competency hearing for **9:15 a.m. on Friday, July 25, 2008.** Fickes shall be present at the hearing.

At that time, if there is evidence that additional treatment is needed in order to restore Fickes to competency, the Court will consider a request for further hospitalization as permitted under **18 U.S.C. § 4241(d)(2).**

Due to the requirements of **18 U.S.C. § 4241**, no further continuances of this hearing will be granted. As a result, defense counsel shall send a copy of this Order to the doctor currently treating Fickes to ensure that the facility is aware of the Court’s deadlines so that it can provide the Court with a copy of its report in advance of the hearing.

IT IS SO ORDERED.

DATED this 9th day of May 2008.

s/ Michael J. Reagan
MICHAEL J. REAGAN
United States District Judge